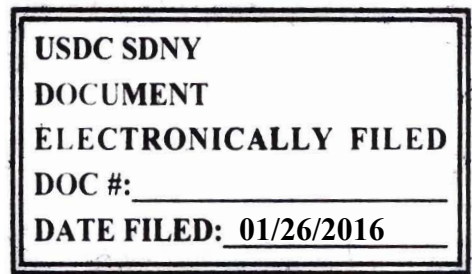


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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JOSE NICOLAS BERMEJO TAMAY, MANUEL  
ANTONIO BERMEJO TAMAY, SEGUNDO JOSE  
BERMEJO TAMAY and JOSE JAVIER REINOSO,  
individually and on behalf of all others similarly situated,

**15-CV-5935 (JMF) (JCF)**

Plaintiffs,

-against-

**ORDER**

MR. KABOB RESTAURANT INC. d/b/a RAVAGH  
PERSIAN GRILL, PERSIAN GRILL CORP., MONIREH  
TEHRANI, MASOUD TEHRANI, and KAVEH TEHRANI  
a/k/a KEVIN, as individuals,

Defendants.

-----X

JOSE NICOLAS BERMEJO TAMAY, MANUEL ANTONIO BERMEJO TAMAY, SEGUNDO JOSE BERMEJO TAMAY and JOSE JAVIER REINOSO, individually and on behalf of all others similarly situated ("Plaintiffs") move the Court to conditionally certify a collective action for Plaintiffs' federal wage and hour claim pursuant to 29 U.S.C. § 216(b).

WHEREFORE, Plaintiffs' motion for conditional certification of a collective action pursuant to 29 U.S.C. § 216(b) is hereby GRANTED. The Court conditionally certifies the following class: All persons who were, or are employed with Defendants as dishwashers, busboys, cooks, grill men, deliverymen, and food runners for Ravagh Persian Grill located at:

- 11 E. 30<sup>th</sup> Street, New York, NY 10016
- 210 Mineola Avenue, Roslyn Heights, NY 11577
- 1135 1<sup>st</sup> Avenue, New York, NY 10065
- 1237 1<sup>st</sup> Avenue, New York, NY 10021

from January 15, 2013 to April 15, 2016.

The Court orders the Defendants to release to Plaintiffs' counsel, within fourteen days of the date of this Order, a list (hereinafter "class list") of employees, employed by defendant within the last three years, in the positions described above, including the names, all known mailing addresses, all known telephone numbers, and location(s) of employment.

If a notice is returned as undeliverable, Defendants will provide the social security number of that individual to Plaintiffs' counsel. Any social security numbers so produced will

be maintained by Plaintiffs' counsel alone and not produced to the Court, if any. Plaintiffs' counsel will use social security numbers for the sole purpose of performing a skip-trace to identify a new mailing address for notices returned as undeliverable. All copies of social security numbers, including any electronic file or other document containing the numbers, will be destroyed once the skip trace analysis is completed. Within 14 days following the close of the opt-in period, Plaintiffs' counsel will certify in writing to the Court that the terms of this Order have been adhered to and that the destruction of the data is complete.

The parties' proposed Notice and Consent Form are approved as modified by the Court. (Changes by the Court appear in section VIII of the Notice and are reflected in tracked changes in the attached document.) Plaintiffs shall send the Notice and opt-in form to all individuals on the class list via first-class mail within ten days of receipt by Plaintiffs of the contact information from Defendants. Plaintiffs shall also send reminder notices to the potential opt-ins towards the end of the opt-in period. Potential opt-ins shall be permitted to file consent to join forms until 60 days after the mailing of the first Notice.

Defendants will also post a copy of the Notice and Consent Form in a prominent, central and obvious location of each of the following restaurant locations:

- 11 E. 30<sup>th</sup> Street, New York, NY 10016
- 210 Mineola Avenue, Roslyn Heights, NY 11577
- 1135 1<sup>st</sup> Avenue, New York, NY 10065
- 1237 1<sup>st</sup> Avenue, New York, NY 10021

Copies of the Notice and Consent forms will be disseminated and posted in English and Spanish, the language most commonly spoken by potential Opt-in Plaintiffs.

**SO ORDERED.**

Dated: January 26, 2016  
New York, NY

  
\_\_\_\_\_  
JESSE M. FURMAN  
United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOSE NICOLAS BERMEJO TAMAY, MANUEL  
ANTONIO BERMEJO TAMAY, SEGUNDO JOSE  
BERMEJO TAMAY and JOSE JAVIER REINOSO,  
individually and on behalf of all others similarly situated,

**15-CV-5935 (JMF)(JCF)**

Plaintiffs,

-against-

MR. KABOB RESTAURANT INC. d/b/a RAVAGH  
PERSIAN GRILL, PERSIAN GRILL CORP., MONIREH  
TEHRANI, MASOUD TEHRANI, and KAVEH TEHRANI  
a/k/a KEVIN, as individuals,

Defendants.

-----X

**NOTICE OF PENDING COLLECTIVE ACTION LAWSUIT WITH  
THE OPPORTUNITY TO JOIN**

***THIS IS A COURT-AUTHORIZED NOTICE  
THIS IS NOT A SOLICITATION OR ADVERTISING FROM A LAWYER***

**FROM:** HELEN F. DALTON & ASSOCIATES, P.C.  
69-12 Austin Street  
Forest Hills, New York 11375  
Tel.: (718) 263-9591  
Fax: (718) 263-9598  
Hfdalton6912@gmail.com

**TO:** All persons who worked as dishwashers, busboys, cooks, grill men, deliverymen, and food runners for Ravagh Persian Grill located at:

- 11 E. 30<sup>th</sup> Street, New York, NY 10016
- 210 Mineola Avenue, Roslyn Heights, NY 11577
- 1135 1<sup>st</sup> Avenue, New York, NY 10065
- 1237 1<sup>st</sup> Avenue, New York, NY 10021

at any time between January 15, 2013, and the present.

**RE:** Opportunity to join a lawsuit asserting violations of a Federal Law known as the Fair Labor Standards Act (“FLSA”) against Ravagh Persian Grill for its alleged failure to pay employees proper minimum wage, spread of hours, and overtime compensation for work performed in excess of forty (40) hours per week.

If you are or were employed by Ravagh Persian Grill and you:

- Worked in the kitchen
- Made deliveries
- Food runners

**PLEASE READ THIS NOTICE CAREFULLY**  
**THIS COULD AFFECT YOUR LEGAL RIGHTS**

**I. PURPOSE OF THIS NOTICE**

The purpose of this Notice is to advise you of a lawsuit that has been filed against Ravagh Persian Grill to recover unpaid minimum wages and overtime compensation, and to advise you that you may be eligible to join this lawsuit. The Court has authorized this Notice so that other individuals that are “similarly situated” to the named Plaintiffs can become aware of their rights and join the lawsuit. The lawsuit was filed on July 29, 2015 against Ravagh Persian Grill. The Plaintiffs allege that Ravagh Persian Grill violated the FLSA by not paying their employees proper minimum wages or over time compensation at time and one-half for all hours worked in excess of forty (40) hours per week.

This Notice will tell you about your rights in this lawsuit and instruct you on how to participate.

**II. WHAT THE LAWSUIT IS ABOUT**

On July 29 2015, former employees of Ravagh Persian Grill— Jose Nicolas Bermejo Tamay, Manuel Antonio Bermejo Tamay, Segundo Jose Bermejo Tamay and Jose Javier Reinoso (“Plaintiffs”)—filed this lawsuit against Ravagh Persian Grill on behalf of themselves and all other past and present dishwashers, busboys, cooks, grill men, deliverymen, and food runners during the past three (3) years. Specifically, Plaintiffs allege that Ravagh Persian Grill did not pay its employees at the statutory minimum wage levels or overtime pay at time and one-half for hours worked over forty (40) in one workweek. Plaintiffs allege that this practice is in violation of the federal law, known as the Fair Labor Standards Act. Plaintiffs seek back pay for unpaid minimum wages and overtime compensation, plus liquidated damages afforded under the statute, prejudgment interest, reasonable attorneys’ fees, and litigation costs.

Ravagh Persian Grill has denied any wrongdoing or liability and contests all claims that have been asserted. Ravagh Persian Grill alleges that it has paid its employees proper overtime compensation and minimum wages at the appropriate statutorily-set standard.

It has not been decided who is right and who is wrong, but the Court is giving the opportunity to all employees who might have been affected by these alleged violations to join this collective action lawsuit.

### **III. WHO CAN JOIN**

The named Plaintiffs seek to sue on behalf of:

1. themselves; and
2. any similarly situated employee who is or has been employed by Ravagh Persian Grill at any time within the last three (3) years as dishwashers, busboys, cooks, grill men, deliverymen, and food runners.

If you have already brought a lawsuit against Ravagh Persian Grill, or filed a complaint with the New York State Department of Labor or U.S. Department of Labor for their alleged failure to pay minimum wages and overtime compensation owed to you, you may not be eligible to join this lawsuit.

### **IV. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT**

You have been identified as an individual who may have a claim against Ravagh Persian Grill similar to the claim made by the Plaintiffs in this case. You have the right to assert that claim against Ravagh Persian Grill in the present lawsuit. You also have the right to initiate your own lawsuit, obtain counsel of your choosing, or you may choose not to sue Ravagh Persian Grill at all.

You may join this lawsuit (that is, you may “opt-in”) by mailing the Opt-In & Consent to Join form that is attached to this Notice to the Court at the following address:

Clerk of the Court  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

The Opt-In & Consent to Join form must be filed with the federal court on or before April 15, 2016. If you do not return the Opt-In & Consent to Join form before this deadline, you will not be able to participate in this lawsuit.

If you return the Opt-In & Consent to Join form attached to this Notice to the Clerk of the Court, you are agreeing to: 1) designate the named Plaintiffs as your agents to make decisions on your behalf concerning the litigation; 2) the method and manner of conducting this litigation; 3) the entering of an agreement with the named Plaintiffs’ counsel concerning attorneys’ fees and costs; 4) and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the named Plaintiffs will be binding on you if you join this lawsuit.

## **V. EFFECT OF JOINING THIS LAWSUIT**

If you choose to join in this lawsuit, you will be bound by the judgment or settlement, whether it is favorable or unfavorable. While this suit is pending, you may be required to respond to certain questions, attend a deposition, and/or testify in court. The attorneys for the named Plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery there will be no attorneys' fee. If there is a recovery, the attorneys for the named Plaintiffs will receive part of any settlement obtained or money judgment entered in favor of all members of the collective action.

## **VI. TO STAY OUT OF THE LAWSUIT**

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case. The statute of limitations will continue to run on your claim until you join this lawsuit or file your own. However, claims under the Fair Labor Standards Act must be brought in court (either by filing a consent to become a party plaintiff or by filing your own lawsuit) within 2 years of the date the claim accrues, unless the employer's violation of the law was "willful," in which case the claim must be brought within 3 years.

## **VII. NO RETALIATION PERMITTED**

Federal and state law prohibit any employer from retaliating against you, discharging you, or in any manner discriminating against you because you decide to join the lawsuit or have in any other way exercised your rights under the Fair Labor Standards Act. Ravagh Persian Grill will not take any adverse action against any current or former employees who participate in this case in any way.

## **VIII. YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you join this lawsuit, and do not hire your own lawyer or ask to represent yourself, you will be represented by Plaintiffs' attorney listed below:

Roman Avshalumov, Esq.  
Helen F. Dalton & Associates, P.C.  
69-12 Austin Street  
Forest Hills, NY 11375  
718-263-9591 (PHONE)/718-263-9598 (FAX)  
avshalumovr@yahoo.com

You do not have to pay out-of-pocket for the services of Plaintiffs' attorneys or for any of the costs of bringing this lawsuit. The attorneys for the Plaintiffs are being paid on a contingency fee basis as described in the "Consent to Sue" form.

If you want to join this lawsuit but do not want to be represented by Helen F. Dalton & Associates, P.C., you have the right to hire your own attorney, at your own cost. You may also

proceed “pro se,” that is on your own, without an attorney. If you choose to do either, you or your attorney must file a separate “opt-in” consent form by April 15, 2016.

#### **IX. FURTHER INFORMATION**

Plaintiffs’ Complaint and Defendants’ Answer filed in this lawsuit are available for inspection at the office of the Clerk of the Court or by contacting Plaintiffs’ counsel at 718-263-9591 who will forward a copy to you. If you have any questions about this Notice, the lawsuit, or the procedure for joining the lawsuit, you may contact Plaintiffs’ or Defendants’ attorneys at:

Helen F. Dalton & Associates, P.C.  
*Attorneys for Plaintiffs*  
69-12 Austin Street  
Forest Hills, NY 11375  
718-263-9591 (PHONE)  
718-263-9598 (FAX)

Sokoloff Stern LLP  
*Attorneys for Defendants*  
179 Westbury Avenue  
Carle Place, NY 11514  
(516) 334-4500 (PHONE)  
(516) 334-4501 (FAX)

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE HONORABLE JESSE M. FURMAN, U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS’ CLAIMS OR OF THE DEFENDANTS’ DEFENSES.**

**PLEASE DO NOT CONTACT THE COURT, THE COURT’S CLERK, OR THE JUDGE ABOUT THIS CASE. THEY ARE NOT PERMITTED TO ADDRESS YOUR INQUIRIES OR QUESTIONS.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOSE NICOLAS BERMEJO TAMAY, MANUEL  
ANTONIO BERMEJO TAMAY, SEGUNDO JOSE  
BERMEJO TAMAY and JOSE JAVIER REINOSO,  
individually and on behalf of all others similarly situated,

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Plaintiffs,

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MR. KABOB RESTAURANT INC. d/b/a RAVAGH  
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TEHRANI, MASOUD TEHRANI, and KAVEH TEHRANI  
a/k/a KEVIN, as individuals,

Defendants.

-----X

**CONSENT TO SUE (TO HAVE FEDERAL CLAIMS HEARD IN THIS CASE)**

I, \_\_\_\_\_, am or was employed by Ravagh Persian Grill within the last three years and was not paid correct minimum wages and/or was not paid overtime wages for some hours worked over forty in a pay week. I hereby consent to sue Defendants in this Fair Labor Standards Act case. I consent to representation by the named plaintiffs and the bringing of any claims I may have under the Fair Labor Standards Act (for minimum wages, overtime, liquidated damages, attorneys' fees, costs and other relief) against the Defendants in this action.

I authorize Helen F. Dalton & Associates, P.C. and its successors and assigns, to represent me in this case. By signing and returning this consent to sue, I understand that, I will be represented by the law firm without prepayment of costs or attorneys' fees. I understand that if plaintiffs are successful, costs expended by attorneys on my behalf will be deducted pro rata from my settlement or judgment first. I understand that the law firm may petition the court for an award of fees and costs to be paid by Defendant on my behalf. I understand that the fees retained by the attorneys will be either the amount of fees received from the Defendants or 1/3 of my settlement or judgment amount, whichever is greater. I understand that if the case is not successful, I will not be obligated to pay any fees or costs to plaintiffs' counsel.

I understand that I am permitted to proceed with alternative counsel of my choosing at my own expense.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Full Name (printed): \_\_\_\_\_

Work Name (if different): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Approximate Dates of Employment: \_\_\_\_\_

**IF YOU WISH TO SEEK RECOVERY AS PART OF THIS LAWSUIT, YOU MUST  
MAIL THE ENCLOSED CONSENT TO JOIN LAWSUIT FORM TO:**

Clerk of the Court  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**THE LAST DAY TO FILE THIS CONSENT TO JOIN LAWSUIT FORM IS**

**April 15, 2016**

***CONSENT TO JOIN LAWSUIT FORMS FILED AFTER APRIL 15, 2016 WILL BE  
REJECTED UNLESS GOOD CAUSE IS SHOWN FOR THE DELAY.***